



An
Bord
Pleanála

S. 6(7) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report on Recommended Opinion ABP-311179-21

Strategic Housing Development	Demolition of existing structures on site, construction of 181 no. of apartments and associated site works.
Location	Balscadden Road and 66 Main Street, Howth, Co. Dublin.
Planning Authority	Fingal County Council
Prospective Applicant	Balscadden GP 3 Ltd.
Date of Consultation Meeting	04 th of November 2021
Date of Site Inspection	29 th of October 2021.
Inspector	Karen Hamilton

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1.0 Introduction

Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

2.0 Site Location and Description

- 2.1. The subject site (c.1.55ha) is located within Howth, a small town located c. 15km to the north east of Dublin City Centre. The site is bound to the west by Balscadden Road, east of Main Street/Abbey Street and south of the Martello Tower which is a protected structure/national monument. The frontage onto Main Street is part of the town or village centre of Howth. Balscadden Road runs parallel and close to coast.
- 2.2. The site is made up of three land parcels, the former Baily Court Hotel along Main Street/ Abbey Street, brownfield lands associated with the Erdos Building to the south of Martello Tower and greenfield lands to the east of Balscadden Road, adjacent to Asgard Park.
- 2.3. A public pathway runs along the north and north eastern boundaries of the site facilitating access from the path to the Martello Tower to the Balscadden Road. A ridge is located along the western side with the rear gardens of the houses fronting onto Abbey Street, generally located at a lower ground level than the subject site. The eastern boundary fronts on Balscadden Road and a car park with palisade fencing. The site also contains part of Balscadden Road adjoining footpath on the eastern side of the carriageway.
- 2.4. The site changes considerably in level. The northern area of the site is at a lower level falling from the Martello Tower mound having been quarried historically and now accommodating the derelict Edros building and accompanying grounds. The lands to the south rise significantly with an embankment adjoining the Balscadden

Road. The land rises by c. 15 metres from north to south. While the site addresses Main Street, part of it is to the rear of properties along Abbey Street which is further north of Main Street. The Balcadden Road is one way to traffic travelling away from the Harbour. Balcadden Bay is located to the east of Balcadden Road.

3.0 Proposed Strategic Housing Development

3.1. The proposed development would comprise of the demolition of the former Baily Court Hotel buildings along Main Street (c. 2,051m²) and the construction of 181 no. residential units in 4 no. blocks (A- D) with associated works as detailed below:

3.2. Development Parameters

Parameters	Site details
Site area	c. 1.55ha
Units	181 (Blocks A-D)
Density	126uph
Other Uses	Retail in Block A (c. 108.4m ²) Café/Retail unit in Block C (c. 307.6m ²) Retail unit in Block D (c. 307m ²)
Residential Amenity Support facilities	c. 611m ²
Open Space	Public Open Space - 1,470m ² Communal Open Space - 3,447m ²
Car parking	144 car park space (ratio 0.78 per unit)
Bicycle parking	426 no. spaces

3.3. The 4 no. residential buildings range in height from 2 storeys to 5 storeys, accommodating 181 no. apartments comprising 57 no. 1 bed units, 95 no. 2 bed units and 29 no. 3 bed units. The breakdown of residential accommodation is as follows:

- Block A is a 3-storey building, including balconies, accommodating 2 no. units;
- Block B is a 2 to 5 storey building, including setbacks, balconies, and external roof terraces at 3rd and 4th floors accommodating 126 no. units;
- Block C is a 3 to 5 storey building, including setbacks and balconies, accommodating 43 no. units;
- Block D is a 4-storey building, including balconies, accommodating 10 no. units.

3.4. The scheme provides for a new linear plaza which will create a new pedestrian link between Main St and Balcadden Rd to include the creation of an additional 2 no. new public plazas and also maintains and upgrades the pedestrian link from Abbey Street to Balcadden Road below the Martello Tower.

4.0 Planning History

4.1. ABP 305828-19

In February 2020 the Board granted permission under the SHD procedure for 177 no. apartments and associated works on the site. This decision was quashed by the High Court in May 2021.

4.2. ABP 301722-18

In September 2018 the board decided to grant permission under the SHD procedure for a development on the current site that would provide 164 apartments, commercial/retail space, a community room and associated site works. This decision was quashed by the High Court on 20th January 2020.

4.3. A number of other proposals have been submitted separately on the site as detailed below:

Site A- site of former Baily Court Hotel

F15A/0072

Permission GRANTED for amendments to PL06F.242595 increasing number of units from 7 no. to 8 no.

PL06F.242595 (F13A/0110)

Permissions GRANTED to demolish hotel and construct four-storey structure containing seven apartments

Site B- Cluxton

PL06F.246183 (F15A/0545)

Permission REFUSED for 9 no. three-storey dwellings and entrance onto Balscadden Road. Reason for refusal related to design, height and scale of proposal and visually incongruous at this sensitive location

PL06F.224372 (F06A/1897)

Permission GRANTED for 6 detached dwellings and new vehicular entrance from Balscadden Road- Permission extended under Ref. F06A/1897/E1

Site C- Balscadden

PL06F.244026 (F14A/0108)

Permission GRANTED for demolition of existing structure and construction of 23 residential units and commercial kiosk unit, with upgrade works to existing vehicular access onto Balscadden Road and pedestrian link from Abbey Street to Balscadden Road

PL06F.227972 (F07A/1349)

Permission REFUSED for demolition of existing structures and construction of 64 residential units and café unit, with upgrade works to existing vehicular access onto Balscadden Road and pedestrian link from Abbey Street to Balscadden Road and access to Martello Tower. Reasons for refusal related to open space zoning of the lands, high amenity area within SAAO and ACA and impact on Balscadden Road.

5.0 Relevant Planning Policy

5.1. Fingal County Development Plan 2017-2023

The site has three separate zoning objectives

- Part of the southern portion of the site is zoned '**Objective RS-Residential**', the objective for which is *"to provide for residential development and protect and improve residential amenity"*
- The majority of the site is zoned '**Objective TC- Town Centre**' which seeks to *"protect and enhance the special physical and social character of town and district centres and provide and/or improve urban facilities"*.
- A small linear area of ground to the north of the site adjoining the boundary with the Martello Tower is zoned '**Objective HA- High Amenity**' which seeks to *"protect and enhance high amenity areas"*

Specific Objectives

- Specific Objective 115 applies to the site which seeks to 'ensure that the layout, scale, height and design respects the high amenity status of the surrounding area, the Martello Tower and the village character'.
- Specific Objective 110 to the northeast of the site seeks to 'provide access to Balscadden Beach from the start of the East Pier'.

Protected Structure & Architectural Conservation Area (ACA)

- The Martello Tower is a Protected Structure (RPS:570) and the Tower and Motte are recorded monuments (RMP Ref. DU016-00201 Castle-Motte and DU016-002-02 Martello Tower).
- Part of the site, principally along the western boundary facing Main Street and Abbey Street and along the northern boundary addressing the Motte/Martello Tower, is within the boundary of the Howth Village Architectural Conservation Area.

Views & Special Amenity

- There is a map-based objective 'to preserve views' along the northern boundary of the site and along Balscadden Road- Map 10.
- The Howth Special Amenity Area Order (SAAO) buffer zone covers part of the site with the western boundary of the SAAO located along Balscadden Road. Lands to the north and east of Balscadden Road including the Motte site are within the SAAO

6.0 Section 247 Consultation(s) with Planning Authority

6.1. The report of the PA notes one S247 meeting on the 17th of May 2021. The issues raised during the June meeting is summarised below:

- The red line for site has changed, Esker is not included.
- The proposal is now based on significant consultation with the local community.
- The Bailey Court replacement building mimics the original building.
- Separation distances between the existing buildings needs to be indicated on plans.
- The proposed use of the upper floors of the Bailey Building and residential use need private amenity space.
- Concern over the use of render as external materials.
- Impact on Martello Tower a concern.
- Visual Impact of Block B and pop up on the north east corner.
- Bailey court replacement building.
- Significant vegetation planting required.
- Naming needs to be run by the community archaeologist.
- Parking is too low as Howth is already over capacity.
- Impact on the SAAO.
- Construction traffic should be over the hill.
- Public Open Space- how will this be met/ taken in charge.
- Play space and landscaping plans need greater clarity.
- Consideration for the location of attenuation tanks and landscape plan.
- Need a balanced approach to the parking.
- Can't cherry pick standards for bike parking.

7.0 Prospective Applicant's Case

7.1. Statement of Consistency

The applicant's Statement of Consistency notes the national, regional and local planning polices relevant to the development of the site.

7.2. Statement of Material Contravention

The statement of material contravention refers to and provides justification for contravention of the Fingal County Development Plan 2017-2023 for:

- Core Strategy: Variation No. 2 (2020) and Table 2.2 sets out the remaining capacity for residential units (436 no.) in Howth which have now been exceeded (March 2020 SHD Techrete Site, 512 no. & current SHD at Deer Park 162 no).
- Parking provision: Section 12.10 of the development plan includes parking standards for residential development.

8.0 Planning Authority Submission

8.1. In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Fingal County Council submitted a note of the S.247 meeting, the planning authority opinion, along with interdepartmental reports and the relevant planning applications in the area. These were received by An Bord Pleanála on the 16th of September 2021. The issues raised by Fingal County Council in their submission are summarised below:

8.2. Planning Assessment

8.2.1. Core Strategy (CS)

- The proposal exceeds the CS limit for Howth as per Variation No 2.
- ABP are requested to consider how the proposed development accords with the National Policy.

8.2.2. Density

- The density is 126 units per ha.

- The units have been increased from the previous application by 4.
- The density is acceptable having regard to the public transport.

8.2.3. Carrying Capacity of the physical infrastructure.

- Howth is under extreme pressure with traffic congestion as a result of constraints on Suttons Cross.
- Parking is extremely limited due to visitor numbers.
- There is concern over the deficit in parking numbers.

8.2.4. Carrying Capacity in the social infrastructure.

- The documentation and Childcare Assessment are noted.
- An assessment of the educational facilities in the area should be included in any application.

8.2.5. Detailed issues

- Block B is closer to Martello Tower and has been increased from 3 storeys to 5 storeys.
- It is requested that Block B be reduced in height to 3 storeys.
- Block A is not in keeping with the traditional form for Block D.
- The palette of external materials is of concern in a maritime environment (white render, grey stone at ground floor and metal work for the railings on the balconies).
- The design of the building to replace the Bailey Hotel is not acceptable. The long vertical dormers and eaves levels are not in keeping with the conservation area and should be amended. The height of Block D should be reduced so that the top floor is omitted. There are concerns over the residential amenity of the 2 no. apartments if the top floor is omitted.
- The findings of the Visual Impact Assessment are of no significant cumulative impact. A realistic assessment should be provided, having regard to the sensitive location of the site.

- Additional verified views are required.
- A full assessment of ADF should be submitted with any SHD application.
- The western elevation of Block B is set close to the rear of existing dwellings along Abbey Street. There will be issues of overbearing and overshadowing on these properties.

8.2.6. **Transportation**

- Car parking & Cycle Parking: 210 no. parking spaces are required at a minimum. It is unclear if the level of parking includes other uses. There is concern over the lack of parking on the site and the overspill onto the surrounding area.

8.2.7. **Irish Water**

- The proposal encroaches onto the Howth pump station overflow tunnel, previously agreed to allow construction. Specific approval is required for this proposal and the applicant is required to enter into a Build Over Agreement with IW.

8.2.8. **Parks and Green Infrastructure**

- The area of Public Open Space (POS) has “car park” written over it.
- The landscape plan should include boundary treatments e.g., specific locations.

8.3. **Interdepartmental Reports**

8.3.1. Water Services Department: No objection subject to compliance with the IW requirements.

8.3.2. Transport Planning Section: Concern is raised in relation to the following:

- The issues from the previous application are still relevant.
- There is a parking demand for 293 spaces and the applicant has only provided 144 spaces.

- The insufficient parking will have a negative impact and cause overspill parking in Howth.
- Details of EV charging.
- An updated Construction Management Plan.
- Details of the basement parking area, taking in charge, road safety audit and stability of the public roads.

8.3.3. Parks & Green Infrastructure Division: Additional information requested as summarised below:

- The Landscape Visual Impact Assessment (LVIA) must be completed with additional verified views and a tree condition survey.
- Clarity on areas marked as POS.
- Requirement for a financial contribution towards the Baldoyle Racecourse Park for a shortfall in Class 1 open space (c. 6,668m²).
- Requirement for a maintenance programme for landscaping.

8.3.4. Conservation Officer: Additional Information requested as summarised below:

- The impact of Block B on the Martello Tower.
- Demonstration as to the stability of the site and that any construction and excavation would not endanger the recorded monument.
- The impact of Block B on the visual amenity of the Martello Tower.
- The inclusion of a landscaping plan between the site and the Martello Tower
- The retention of Martello Tower as a landmark feature on the skyline of Howth.
- Alteration of the scale of the proposal as Block B will be visual dominant.
- Concern in relation to the external materials.
- An up-to-date structural assessment/ condition undertaken by professionals with sufficient conservation interest.
- Removal of the top floor of Block D and alterations to the external materials.

- Alteration to Block A so as it has a traditional form.
- Additional detail on the ground floor commercial units and shopfronts.

9.0 Irish Water

9.1. A submission from Irish Water (IW), dated 20th of September 2021, confirmed feasibility for 181 no. residential units and associated works, subject to the following:

In respect of Wastewater:

- Approximately 100m network extension, from the site to the existing 300mm sewer in Abbey St will be required for the connection. Irish Water currently does not have any plans to extend its network in this area. The applicant will be required to fund these network upgrades as part of a connection agreement.
- Irish Water records indicate that there is existing infrastructure present on the proposed development site. It is not be permitted to build over any Irish Water infrastructure. The applicant has engaged with Irish Water Diversions section (reference DIV20149) in respect of a potential Build Over Agreement and a review is currently ongoing.
- Prior to progressing to SHD application the applicant is required to ensure a complete assessment, confirming the development proposal will not pose any risk to IW assets and or impact access to and maintenance of IW assets during works and thereafter by occupancy. The applicant may be required to enter into an appropriate agreement with Irish Water to ensure protection of its assets and ensure access is always maintained.

10.0 The Consultation Meeting

10.1. A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 04th of November 2021, commencing at 10:00am, via Microsoft Teams. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting as detailed below:

1. Conservation Impact Assessment, *inter alia*, height of Block B and alterations from previous proposals
2. Impact on Visual amenity, *inter alia*, design and layout of Block D
3. Impact on Residential Amenity, *inter alia*, daylight & sunlight, design, and layout, open space provision
4. Traffic & Transport
5. Any Other Matters.

10.2. In relation to the **Conservation Impact Assessment**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The Conservation Impact Assessment, the documentation submitted and the need to include a detailed visual impact assessment of the proposed development on the Martello Tower and the surrounding area.
- The height, scale and height of Block B, the cross sections submitted and the absence of detailed dimensions.

10.3. In relation to the **Visual Amenity**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The Computer-Generated Images (GCIs) and the absence of any short-range views to illustrate the impact of the proposed development on the surrounding area.
- The design and layout of the proposed development and the impact on the ACA.

10.4. In relation to the **Residential Amenity**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The daylight/sunlight analysis submitted, analysis of existing residential development and the inclusion of any impacts from the proposed retaining walls.
- The location of the public open space along the public plaza.
- The location of private amenity space in the proposed development and the potential for overlooking into existing residential properties.

- Inclusion of a tree survey.

10.5. In relation to the **Traffic & Transport**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The Material Contravention in relation to the quantum of car parking spaces, the ratio of parking provided and the location of the site close to sustainable transport.
- The design of the access, use of car-sharing schemes and construction access.

10.6. In relation to **Any Other Matters**, An Bord Pleanála representatives sought further elaboration/discussion/consideration on the following:

- The updated Part V requirements.
- The report on the healthland around Howth, the inclusion in any ecological studies and the impact of the proposed development on this ecology.

11.0 **Assessment**

11.1. Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

I have examined all of the information and submissions before me including the documentation submitted by prospective applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines and local policy via the statutory plans for the area.

Conclusion

I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act requires **further consideration and amendment in order to constitute a reasonable basis for an**

application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

12.0 Recommended Opinion

12.1. The Board refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála is of the opinion that the documentation submitted requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála

1. Architectural Heritage Impact Assessment

Further consideration and/or justification of the documents as they relate to the impact of the proposed development on the character and setting of the features of conservation interest in the vicinity including those buildings in the Architectural Conservation Area and the Martello Tower which adjoins the site to the north. The documentation should demonstrate that the height, design, scale and massing of the proposed development would not have an adverse impact on the architectural heritage of the area. In particular the documentation should fully address the requirements of the criteria as set out in Section 6.4.15 and Appendix B of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and those relevant policies and objectives for the site relating to the built heritage in the development plan.

The further consideration and or justification should include additional CGIs/visualisations/3D digital modelling and cross section drawings showing the

works required on the site, the proposed development relative to existing and proposed developments in the vicinity, including justification for the height of Block B at this location relative to the surrounding area. Any contextual drawings should include the Martello Tower.

12.2. Pursuant to article 285(5)(b)(i) and (ii) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that the **following specific information** should be submitted with any application for permission:

1. A detailed landscaping plan clearly illustrating the quantum and functionality of all areas designated for communal and public open space. The landscaping details shall include, *inter alia*, designated communal open space, the inclusion of useable space for play provision necessary to comply with Section 4.13 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities and the design, a detailed trees survey and proposed tree planting scheme and shall clearly indicate the quantum and designated areas of useable public open space.
2. Submission of an updated Construction management Plan.
3. An updated Sunlight/Daylight/Overshadowing analysis showing an acceptable level of residential amenity for future occupiers and existing residents, which includes details on the standards achieved within the proposed residential units, in private and shared open space, and in public areas within the development and in adjacent properties. This report should address the full extent of requirements of BRE209/BS2011, as applicable.
4. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.

12.3. Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application

arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. Transport Infrastructure Ireland.
3. National Transport Authority
4. Minister for Culture, Heritage and the Gaeltacht (archaeology, architectural heritage and nature conservation),
5. The Heritage Council (archaeology, architectural heritage and nature conservation),
6. An Taisce-the National Trust for Ireland (archaeology, architectural heritage and nature conservation),
7. An Comhairle Ealaoin,
8. Failte Ireland
9. The relevant Childcare Committee

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Karen Hamilton
Senior Planning Inspector

29th of November 2021